

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

APR 20 2005

OFFICE OF PETITIONS

In re Patent Application of:)	
)	
First named Inventor: Mark Plaia, et al.)	Docket No. 5770.CD2C.2
)	
Serial No. 09/938,882)	Art Unit: 3738
)	
Filed: August 24, 2001)	Examiner: Hieu Phan
)	
For: ANTI-STENOTIC METHOD AND)	
PRODUCT FOR OCCLUDED AND)	
PARTIALLY OCCLUDED)	
ARTERIES)	

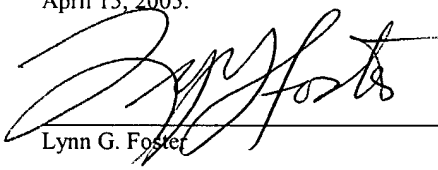
TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
BASED ON U.S. PATENT NO. 6,090,135

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The owner, EndoVascular Instruments, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as presently shortened by any terminal disclaimer, of: prior Patent No. 6,090,135. The owner hereby agrees that any patent so

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, in an envelope addressed to: Attention: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 15, 2005.


Lynn G. Foster

granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent: expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer to the prior patent.

Check either box 1 or 2 below, if appropriate.

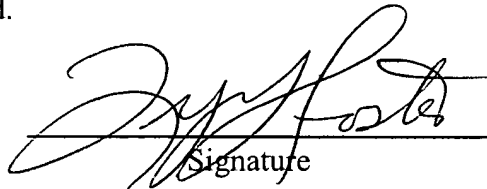
1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

4-15-05

Date


Signature

Lynn G. Foster, Attorney of Record

Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included in the attached deposit account payment authorization.
- ☒ PTO suggested wording for terminal disclaimer was
- ☒ unchanged. ☐ changed (if unchanged, an explanation should be supplied).



Mark Plaia, et al.

Serial No.: 09/938,882

Filed: August 24, 2001

For: ANTI-STENOTIC METHOD AND
PRODUCT FOR OCCLUDED AND
PARTIALLY OCCLUDED
ARTERIES

Docket No. 5770.CD2C.2

Art Unit: 3738

Examiner: Hieu Phan

RECEIVED
APR 20 2005
OFFICE OF PETITIONS

AUTHORIZATION OF DISCLAIMER FEE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please charge the statutory disclaimer fee of Sixty-Five Dollars (\$65.00) for a small entity respecting the attached TERMINAL DISCLAIMER to Deposit Account 06-1620 of the undersigned. Please charge any additional fees required for the TERMINAL DISCLAIMER and credit any excess charges heretofore made in this matter to Deposit Account 06-1620 of the undersigned.

Respectfully submitted,

Lynn G. Foster
Attorney for Applicants

602 East 300 South
Salt Lake City, UT 84102
Telephone: (801) 364-5633

04/19/2005 EAREGAY1 00000002 061620 09938882

02 FC:2814 65.00 DA

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, in an envelope addressed to: Mail Stop - Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 15, 2005.

~~Lynn G. Foster~~